

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KEVIN CLAPP,
Plaintiff

V.

CHARLES BAKER, et. al.
Defendants

Civil Action No. 18-10426-ADB

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION IN LIMINE SEEKING TO
PROHIBIT THE PLAINTIFF FROM TESTIFYING TO THE STATEMENTS
ATTRIBUTED TO HIM BY LEO MURRAY**

In this motion, defendants seek to silence Mr. Clapp with respect to any statements or remarks he may have made to Leo Murray. In essence, defendants seek to use this Court to prevent Mr. Clapp from having a fair hearing by preventing him from offering his testimony in regards to hearsay statements that Leo Murray may have made to defendants. If defendants expect to offer evidence of what Leo Murray stated to defendants, they must call him as a witness. Once called, Mr. Clapp has a right to cross-examine him. The right to cross-examine a witness is a fundamental right in any legal proceeding. A witness has a duty to offer evidence.

Commonwealth v. Corsetti, 387 Mass. 1, 5 (1982). Leo Murray has a duty to testify if called by either party, at which point he would be subject to cross-examination. Mr. Clapp expects to cross-examine Leo Murray as he would any other witness called by the defendants. G.L. c. 233, s. 20 states: "...any person of sufficient understanding although party, may testify in any proceeding, civil or criminal, in court or before a person who has authority to receive evidence."

If this preclusion is allowed, Mr. Clapp would be denied his rights under The Declaration of Rights to confront witnesses (Article 12) and his right to a jury trial (Articles 12 and 15).

WHEREFORE, Plaintiff prays that defendants' motion be denied.

Respectfully submitted,

KEVIN CLAPP

By

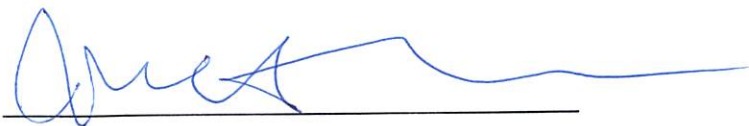


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CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing document upon each attorney of record by the ECF system.

February 9, 2022



Robert C Johnson Jr.